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determining the post-operative inhibition of breast tumor growth by monitoring at least one constituent of said biomarker panels.

REMARKS

Applicants and the undersigned reviewed the Office Action carefully before preparing this response. Reconsideration is respectfully requested. Even so, in light of the comments presented below, this application is believed to be in condition for allowance.

The Examiner rejected claims 10-14 under 35 U.S.C. § 112, second paragraph, as failing to distinctly claim inventive subject matter. Specifically, it is the Examiner's position that the claims are indefinite in that the preamble does not match a correlation step.


Applicants appreciate the Examiner's concern and amend Claim 10 as presented herein. However, it is believed that the recited method, in light of the specification, conveys to one skilled in the art a sufficient description of the invention.

Several claims were also rejected under the doctrine of obviousness-type double patenting, as being unpatentable over several claims of the '349 Patent. In response thereto and as suggested by the examiner, a terminal disclaimer accompanies this response.

This application is believed to be in condition for allowance. The Examiner is invited to contact the undersigned by telephone, if any issue remains, or if further discussion is warranted. Thank you for your help and consideration.

Respectfully submitted,

BY


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MARKED UP VERSION SHOWING CHANGES MADE

10. (Amended) A post-operative method of monitoring the inhibition of breast tumor growth, said method comprising:

providing a human test subject, said subject post-operative to the removal of a malignant breast tumor;

providing a salivary secretion specimen from said subject to develop a post-operative biomarker panel, said panel having constituents selected from the group consisting of cancer antigen 15-3, tumor suppressor oncogene protein 53, oncogene c-erbB-2 and combinations thereof;

comparing [using] said post-operative biomarker panel [to compare] with a pre-operative biomarker reference panel for said subject; and

determining the post-operative inhibition of breast tumor growth [malignancy] by monitoring at least one constituent of said biomarker panels.